

IC 13-25-3

Chapter 3. Responsible Property Transfer Law

IC 13-25-3-1

Information concerning property; liability for incomplete or erroneous information

Sec. 1. (a) In response to an inquiry from a person in connection with this chapter, the department shall provide information that is in the department's possession concerning whether a property meets any of the descriptions set forth in IC 13-11-2-174.

(b) Neither:

- (1) the state;
- (2) the department; nor
- (3) an employee of the department who answers an inquiry under this section;

is liable in a civil action on the grounds that information provided under this section was incomplete or erroneous.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-2

Disclosure document; delivery; waiver

Sec. 2. (a) Except as provided in subsections (b) and (c), a transferor of property shall deliver a disclosure document to each of the other parties to a transfer of property at least thirty (30) days before the transfer. The disclosure document must be in the form set forth in section 7 of this chapter and must include the information elicited by that form. However, the signature of the transferee is not required on the disclosure document delivered to a party involved in the transfer of property as a lender.

(b) If all of the other parties to a transfer of property waive the thirty (30) day deadline set forth in subsection (a) in written waivers that indicate that the parties are aware of the purpose and intent of the disclosure document, the transferor is not required to deliver the disclosure document to the other parties thirty (30) days before the transfer of the property. However, the transferor shall deliver a disclosure document that meets the requirements set forth in subsection (a) to each of the other parties to the transfer of property on or before the date on which the transfer of property is to become final.

(c) If a party involved in a transfer of property as a lender is not identified to the transferor at least thirty (30) days before the transfer, the thirty (30) day deadline set forth in subsection (a) does not apply to the delivery of a disclosure document by the transferor to that lender. However, if a lender is identified to a transferor less than thirty (30) days before the transfer, the transferor shall deliver a disclosure document to the lender immediately after the lender is identified to the transferor.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-3

Disclosure document; environmental defects revealed; obligation

Sec. 3. If the disclosure document delivered by the transferor to another party to the transfer of property under section 2 of this chapter reveals one (1) or more environmental defects in the property that were previously unknown to the other party, the other party is relieved of an obligation to:

- (1) accept the transfer of the property; or
- (2) finance the transfer of the property.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-4

Failure to deliver disclosure document

Sec. 4. (a) If a transferor:

- (1) fails to deliver a disclosure document meeting the requirements set forth in section 2 of this chapter to one (1) or more other parties to the transfer of property before the deadline set forth in section 2(a) of this chapter; and
 - (2) does not obtain a waiver under section 2(b) of this chapter;
- a party that did not receive a disclosure document may demand a disclosure document from the transferor.

(b) A party who demands a disclosure document under this section may void an obligation to accept the transfer of the property or to finance the transfer of the property if:

- (1) the party does not receive a disclosure document not later than ten (10) days after demanding a disclosure document; or
- (2) the party receives a disclosure document not later than ten (10) days after demanding the disclosure document but the disclosure document reveals one (1) or more environmental defects in the property that were previously unknown to the party.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-5

Demand of disclosure document

Sec. 5. (a) If a transferor:

- (1) obtains a waiver under section 2(b) of this chapter; but
 - (2) fails to deliver a disclosure document meeting the requirements set forth in section 2 of this chapter to one (1) or more of the other parties to the transfer of property before the date on which the transfer is scheduled to become final;
- a party that did not receive a disclosure document may demand a disclosure document from the transferor.

(b) Subject to section 6 of this chapter, a party who demands a disclosure document under this section may void an obligation to accept the transfer of the property or to finance the transfer of the property if:

- (1) the party does not receive a disclosure document not later than ten (10) days after demanding a disclosure document; or
- (2) the party receives a disclosure document not later than ten (10) days after demanding the disclosure document but the

disclosure document reveals one (1) or more environmental defects in the property that were previously unknown to the party.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-6

Voiding of obligation; limitation

Sec. 6. A party to a transfer of property may not void an obligation to:

- (1) accept the transfer of the property; or
- (2) finance the transfer of property under sections 3 through 5 of this chapter;

after the transfer of property has taken place.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-7

Disclosure document; form

Sec. 7. A disclosure document delivered by a transferor of property under this chapter must follow this form:

A WARNING TO THE PARTIES TO A TRANSFER OF PROPERTY: It is highly unlikely that the single act of reading this document would be found to constitute "all appropriate inquiry into the previous ownership and uses of the property" so as to protect you against liability under the "innocent purchaser" provision of the federal Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601(35)(B)). You are strongly encouraged not only to read this document carefully but also to take all other actions necessary to the exercise of due diligence in your inquiry into the previous ownership and uses of the property.

ENVIRONMENTAL DISCLOSURE DOCUMENT FOR TRANSFER OF REAL PROPERTY

	_____	For Use By County Recorder's Office County Date Doc. No. Vol. Page Rec'd by:
The following information is provided under IC 13-25-3, the Responsible Property Transfer Law.		
I. PROPERTY IDENTIFICATION		
A. Address of property:	_____	
Street		
City or Town	Township	_____
Tax Parcel Identification No. (Key Number): _____		
B. Legal Description:		
Section ____ Township ____ Range ____		
Enter or attach complete legal description in this area:		

LIABILITY DISCLOSURE

Transferors and transferees of real property are advised that their ownership or other control of such property may render them liable for environmental cleanup costs whether or not they caused or contributed to the presence of environmental problems in association with the property.

C. Property Characteristics:

Lot Size _____ Acreage _____

Check all types of improvement and uses that pertain to the property:

_____ Apartment building (6 units or less)

_____ Commercial apartment (over 6 units)

_____ Store, office, commercial building

_____ Industrial building

_____ Farm, with buildings

_____ Other (specify)

II. NATURE OF TRANSFER

Yes No

- A. (1) Is this a transfer by deed or other instrument of conveyance of fee title to property? _____
- (2) Is this a transfer by assignment of over 25% of beneficial interest of a land trust? _____
- (3) A lease exceeding a term of 40 years? _____
- (4) A collateral assignment of beneficial interest? _____
- (5) An installment contract for the sale of property? _____
- (6) A mortgage or trust deed? _____
- (7) A lease of any duration that includes an option to purchase? _____

B. (1) Identify Transferor:

Name and Current Address of Transferor

Trust No.

Name and Address of Trustee if this is a transfer of beneficial interest of a land trust.

-
- (2) Identify person who has completed this form on behalf of the Transferor and who has knowledge of the information contained in this form:

Name, Position (if any),
and Address

Telephone No.

C. Identify Transferee:

Name and Current Address of Transferee

III. ENVIRONMENTAL INFORMATION

A. Regulatory Information During Current Ownership

1. Has the transferor ever conducted operations on the property which involved the generation, manufacture, processing, transportation, treatment, storage, or handling of a "hazardous substance" (as defined by IC 13-11-2-98)? This question does not apply to consumer goods stored or handled by a retailer in the same form and approximate amount, concentration, and manner as they are sold to consumers, unless the retailer has engaged in any commercial mixing (other than paint mixing or tinting of consumer sized containers), finishing, refinishing, servicing, or cleaning operations on the property.

Yes ☐

No ☐

2. Has the transferor ever conducted operations on the property which involved the processing, storage, or handling of petroleum, other than that which was associated directly with the transferor's vehicle usage?

Yes ☐

No ☐

3. Has the transferor ever conducted operations on the property which involved the generation, transportation, storage, treatment, or disposal of "hazardous waste" (as defined in IC 13-11-2-99(a))?

Yes ☐

No ☐

4. Are there any of the following specific units (operating or closed) at the property that are used or were used by the transferor to manage hazardous wastes, hazardous substances, or petroleum?

YES NO

Landfill	<input type="checkbox"/>	<input type="checkbox"/>
Surface Impoundment	<input type="checkbox"/>	<input type="checkbox"/>
Land Application	<input type="checkbox"/>	<input type="checkbox"/>
Waste Pile	<input type="checkbox"/>	<input type="checkbox"/>
Incinerator	<input type="checkbox"/>	<input type="checkbox"/>
Storage Tank (Above Ground)	<input type="checkbox"/>	<input type="checkbox"/>
Storage Tank (Underground)	<input type="checkbox"/>	<input type="checkbox"/>
Container Storage Area	<input type="checkbox"/>	<input type="checkbox"/>
Injection Wells	<input type="checkbox"/>	<input type="checkbox"/>
Wastewater Treatment Units	<input type="checkbox"/>	<input type="checkbox"/>
Septic Tanks	<input type="checkbox"/>	<input type="checkbox"/>
Transfer Stations	<input type="checkbox"/>	<input type="checkbox"/>
Waste Recycling Operations	<input type="checkbox"/>	<input type="checkbox"/>
Waste Treatment Detoxification	<input type="checkbox"/>	<input type="checkbox"/>
Other Land Disposal Area	<input type="checkbox"/>	<input type="checkbox"/>

If there are "YES" answers to any of the above items and the transfer of property that requires the filing of this document is other than a mortgage or trust deed or a collateral assignment of beneficial interest in a land trust, you must attach to the copies of this document that you file with the county recorder and the department of environmental management a site plan that identifies the location of each unit.

5. Has the transferor ever held any of the following in regard to this real property?

- (A) Permits for discharges of wastewater to waters of Indiana. Yes ☐
No ☐
- (B) Permits for emissions to the atmosphere. Yes ☐
No ☐
- (C) Permits for any waste storage, waste treatment, or waste disposal operation. Yes ☐
No ☐

6. Has the transferor ever discharged any wastewater (other than sewage) to a publicly owned treatment works? Yes ☐
No ☐

7. Has the transferor been required to take any of the following actions relative to this property? Yes ☐
No ☐

- (A) Filed an emergency and hazardous chemical inventory form pursuant to the federal Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11022). Yes ☐
No ☐

- (B) Filed a toxic chemical release form pursuant to the federal Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023). Yes ☐
No ☐

8. Has the transferor or any facility on the property or the property been the subject of any of the following state or federal governmental actions?

- (A) Written notification regarding known, suspected, or alleged contamination on or emanating from the property. Yes ☐
No ☐

- (B) Filing an environmental enforcement case with a court or the solid waste management board for which a final order or consent decree was entered. Yes ☐
No ☐

- (C) If the answer to question (B) was Yes, then indicate whether

or not the final order or decree
is still in effect for this
property.

Yes ☐

No ☐

9. Environmental Releases During Transferor's Ownership.

(A) Has any situation occurred at
this site which resulted in a
reportable "release" of any
hazardous substances or
petroleum as required under
state or federal laws?

Yes ☐

No ☐

(B) Have any hazardous substances
or petroleum which were released
come into direct contact with
the ground at this site?

Yes ☐

No ☐

If the answer to question (A) or (B) is
Yes, have any of the following actions
or events been associated with a release
on the property?

☐ Use of a cleanup contractor to
remove or treat materials including
soils, pavement, or other surficial
materials?

☐ Assignment of in-house
maintenance staff to remove or treat
materials including soils, pavement, or
other surficial materials?

☐ Sampling and analysis of soils?

☐ Temporary or more long term
monitoring of groundwater at or near
the site?

☐ Impaired usage of an onsite or
nearby water well because of offensive
characteristics of the water?

☐ Coping with fumes from
subsurface storm drains or inside
basements?

☐ Signs of substances leaching out
of the ground along the base of slopes or
at other low points on or immediately
adjacent to the site?

(C) Is there an environmental defect (as
defined in IC 13-11-2-70) on the
property that is not reported under
question (A) or (B)?

Yes ☐

No ☐

If the answer is Yes, describe the environmental
defect:

10. Is the facility currently operating under a variance granted by the commissioner of the Indiana department of environmental management?

Yes ____
No ____

11. Has the transferor ever conducted an activity on the site without obtaining a permit from the U.S. Environmental Protection Agency, the commissioner of the department of environmental management, or another administrative agency or authority with responsibility for the protection of the environment, when such a permit was required by law?

Yes ____
No ____

If the answer is Yes, describe the activity:

12. Is there any explanation needed for clarification of any of the above answers or responses?

B. Site Information Under Other Ownership Or Operation

1. Provide the following information about the previous owner or about any entity or person to whom the transferor leased the property or with whom the transferor contracted for the management of the property:

Name: _____

Type of business _____
or property usage _____

2. If the transferor has knowledge, indicate whether the following existed under prior ownerships, leaseholds granted by the transferor, or other contracts for management or use of the property:

	YES	NO
Landfill	___	___
Surface Impoundment	___	___
Land Application	___	___
Waste Pile	___	___
Incinerator	___	___
Storage Tank (Above Ground)	___	___
Storage Tank (Underground)	___	___
Container Storage Area	___	___
Injection Wells	___	___
Wastewater Treatment Units	___	___
Septic Tanks	___	___
Transfer Stations	___	___
Waste Recycling Operations	___	___
Waste Treatment	___	___
Detoxification	___	___
Other Land Disposal Area	___	___

IV. CERTIFICATION

A. Based on my inquiry of those persons directly responsible for gathering the information, I certify that the information submitted is, to the best of my knowledge and belief, true and accurate.

TRANSFEROR (or on behalf of Transferor)
B. This form was delivered to me with all elements completed on

_____ 19 ____

TRANSFeree (or on behalf of Transferee)

As added by P.L.1-1996, SEC.15.

IC 13-25-3-8

Recording and filing of disclosure document

Sec. 8. (a) Not more than thirty (30) days after the effective date of a transfer of property that requires the preparation of a disclosure document under this chapter:

- (1) the transferor or transferee shall record the disclosure document in the office of the county recorder of the county in which the property is located; and
- (2) the transferor shall file a copy of the disclosure document with the department.

(b) If a site plan must be attached to the disclosure document under section 7 of this chapter, the site plan shall be recorded and filed under subsection (a) along with the disclosure document to which the site plan must be attached.

(c) The transferor and transferee are jointly responsible for

recording a disclosure document in the county recorder's office under this section. However, the recording of a disclosure document by one (1) person referred to in this subsection discharges the responsibility of the other person.

(d) A disclosure document recorded in the county recorder's office or filed with the department:

- (1) is a public record under IC 5-14-3; and
- (2) must be available for inspection and copying during normal business hours.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-9

Environmental defect elimination; recording

Sec. 9. (a) If a disclosure document recorded under section 8(a)(1) of this chapter reports the existence of an environmental defect on a property, a person who has a financial interest in the property may record, in the same county recorder's office in which the disclosure document is recorded, a document that reports that the environmental defect has been eliminated from the property.

(b) A professional engineer registered under IC 25-31-1 who does not have a financial interest in the property must certify a document filed under this section.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-10

Failure to deliver disclosure document; penalty

Sec. 10. A transferor who fails to deliver a disclosure document to a party in violation of section 2 of this chapter commits a Class B infraction.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-11

Knowingly making false statement in disclosure document; penalty

Sec. 11. A transferor who knowingly makes a false statement in a disclosure document delivered under this chapter commits a Class A infraction. Each day that the transferor knows of the falsity of the statement made in the disclosure document but fails to correct that statement through the filing, recording, and delivery of a corrected disclosure statement constitutes a separate infraction.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-12

Failure to record disclosure document; penalty

Sec. 12. (a) Except as provided in subsection (b), a person who:

- (1) is responsible for filing a disclosure document in the office of the county recorder under section 8(a)(1) and 8(c) of this chapter; and

(2) fails to record the disclosure document;
commits a Class A infraction.

- (b) The failure of a transferee to record a disclosure document

within the period allowed under section 8(a) of this chapter is not an infraction under this section if the disclosure document:

- (1) was not delivered to the transferee within the time allowed under section 2 of this chapter; or
- (2) contains one (1) or more false statements about substantive matters.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-13

Exceptions to disclosure document requirements

Sec. 13. (a) The duties imposed by this chapter are subject to the exceptions set forth in this section.

(b) A buyer of property who finances the purchase of the property through a mortgage loan is not required under section 2, 4, or 5 of this chapter to deliver a disclosure document to the mortgagee that provides the mortgage loan.

(c) A person who lends money and takes a mortgage on property to secure the loan is not required under section 8 of this chapter to:

- (1) record a disclosure document concerning the property in the office of the county recorder of the county in which the property is located; or
- (2) file a copy of the disclosure document with the department.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-14

Order requiring compliance with chapter

Sec. 14. In an action based on an alleged commission of an infraction defined in sections 10 through 12 of this chapter, the prosecuting attorney may obtain an order requiring the defendant to comply with this chapter.

As added by P.L.1-1996, SEC.15.

IC 13-25-3-15

Civil action; damages; costs; attorney's fees

Sec. 15. A party to a transfer of property may bring a civil action against another party to the transfer of property to recover consequential damages based upon a violation of this chapter. In an action brought under this section, a party may recover reasonable costs and attorney's fees.

As added by P.L.1-1996, SEC.15.